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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/772,894	01/31/2001	Junichi Akiyama	202594US2RD	1087

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EXAMINER

PSITOS, ARISTOTELIS M

ART UNIT	PAPER NUMBER
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2653

15

DATE MAILED: 11/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

KS

Office Action Summary

Application No.

09/772,894

Applicant(s)

AKIYAMA ET AL.

Examiner

Aristotelis M Psitos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8,10,11 and 16-19 is/are pending in the application.
- 4a) Of the above claim(s) 17-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8,10 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 13.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Applicants' response of 10/2/03 has been considered with the following results.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-3,5-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al considered with Kobayashi et al both considered with Peale et al –Majors, Jr. et al and all further considered with Ueyanagi.

The references are relied upon for the reasons stated in the previous Office action.

The orientation of the axis of the light spot is expanded upon/taught by the newly cited Ueyanagi reference; see the discussion with respect to 6b.

It would have been obvious to modify the references to Chen et al -Kobayashi et al – Peale et al-Majors, Jr. et al with the above teaching from Ueyanagi, motivation is to increase the recording track density across the record medium.

Response to Arguments

3. Applicant's arguments with respect to claims 1-3,5-8 and 10 have been considered but are moot in view of the ground(s) of rejection.

With respect to applicants' arguments against the primary reference, the examiner submits that if Chen did either disclose or suggest such a light -emitting hole and masking layer, the reference would have been closer to a 102, and no need to rely upon the secondary reference to Kobayashi.

With respect to Kobayashi, the examiner has submitted a reason to use such a teaching along with Chen. Applicants' attention is also drawn to the newly cited JP 08-222814 document, which could be relied upon in place of the Kobayashi reference for teaching a light absorbing and aperture/hole combination in this environment to increase the recording density. ✓

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The reliance upon the documents for Peale and Major are not for what they fail to disclose/teach.

The reliance upon Ueyanagi is maintained. The examiner considers the overall claimed combination including the directional limitations as obvious modifications thereover. Again, in order to increase the recording density the appropriate width and length relationships are considered obvious for the reasons of record.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of either – Sawamura et al, Choi et al or Kashiwagi et al. Although the examiner considers applicants' arguments against the use of Official notice as untimely – see the above section of the MPEP, nevertheless, the examiner submits either the document to Sawamura et al, Choi et al or Kashiwagi et al as teaches the ability of having anti-reflective layer(s) in this environment for their inherent use. Further more, with respect to the range of claim 4, note the thickness values recited in either Choi et al or Kashiwagi et al.

It would have been obvious to modify the base system of the primary reference with the additional teachings from any of the secondary references, motivation is as discussed therein.

✓ 5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 10 above, and further in view of either Sawamura et al, Choi et al or Kashiwagi et al. Although the examiner considers applicants' arguments against the use of Official notice as untimely – see the above section of the MPEP, nevertheless, the examiner submits either the document to Sawamura et al, Choi et al or Kashiwagi et al as teaches the ability of having anti-reflective layer(s) in this environment for their inherent use. Further more, with respect to the range of claim 4, note the thickness values recited in either Choi et al or Kashiwagi et al.

It would have been obvious to modify the base system of the primary reference with the additional teachings from any of the secondary references, motivation is as discussed therein.

/ 6. Claim 16 is rejected under 35 U.S.C. 102(e) as being anticipated by Stovall et al.

The reference is relied upon for the reasons of record.

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Response to Arguments

7. Applicant's arguments filed 10/2/03 have been fully considered but they are not persuasive.

There is no size limitation(s) found in claim 16, hence these arguments are not germane.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Hard copies of the application files are now separated from this examining corps; hence the examiner can answer no questions that require a review of the file without sufficient lead-time.

Any inquiries concerning missing papers/references, etc. must be directed to Group 2600 Customer Services at (703) 306-0377.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aristotelis M Psitos whose telephone number is (703) 308-1598. The examiner can normally be reached on M-Thursday 8 - 4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William R. Korzuch can be reached on (703) 305-6137. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

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Aristotelis M Psitos
Primary Examiner
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AMP
November 13, 2003